

specific projects and increases the overall cost of implementing the NCDOT's Stream and Wetland Program.

VI. Summary Conclusions

S.L. 2008-152 and 2009-337 could result in more than \$22 million worth of advance unallocated EEP assets being unavailable for sale to the development community. The degree of the fiscal and operational impact on EEP is uncertain for several reasons:

- ◆ The session law does not directly affect governmental agencies access to the program, therefore the degree to which governmental agencies access the program may diminish the overall effect.
- ◆ The degree to which (and the location where) mitigation banks will proliferate in the state is unpredictable at this point in time.
- ◆ The present economic conditions for all development remain historically low. Both public and private sector developers have significantly curtailed development and access to mitigation in general.

Most EEP assets exist in areas where mitigation banks have been established or are proposed; however, even those advance credits that are located where banks currently are not proposed could become stranded should a bank open at anytime in the future.

Analysis has shown that nearly all of these advance mitigation credits are associated with projects that must be completed because of regulatory requirements. EEP believes that stopping the development of these projects is not a viable solution and would result in cancellation of active contracts, involve loss of revenue to contractors and possibly loss of jobs. Furthermore, the environmental benefit of the mitigation sites underway would be lost or severely compromised.

The session laws effectively increase the carrying cost of unutilized asset inventory by increasing the quantities of unallocated credits generated because of less efficient program delivery. The session laws extend the potential length of time that unallocated assets must be carried prior to sale (perhaps indefinitely). If alternative solutions are not developed to address these effects, the ILF programs will experience increased costs. Since EEP receives no appropriated funds, these increased costs need to be passed on to the future users of the program via increased fee rates.

For these reasons, NCDENR believes that actions need to take place in the near future to monitor, evaluate and adjust policies and procedures. To address the clearinghouse issue identified on page 9 of this report, EEP and the N.C. Division of Water Quality have begun discussions on how best to establish reporting mechanisms to meet this need. A report back to the Environmental Review Commission in October 2010 is recommended.